



STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Notice of Decision

Decision Date: March 30, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012782

[REDACTED]

Dear [REDACTED]

On February 9, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 18, 2016 eligibility determination notice and December 13, 2016 eligibility determination notice.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of NY State of Health.

If you have questions about your Decision, you can contact us by:

- Calling the Customer Service Center at 1-855-355-5777
- Sending Mail to:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- Sending a Fax to 1-855-900-5557

When contacting NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification number and the Account ID at the top of this notice.

Legal Authority

We are sending you this notice in accordance with 45 Code of Federal Regulations (CFR) § 155.545.

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY - Spanish: 1-877-662-4886).

This page intentionally left blank.



STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Decision

Decision Date: March 30, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012782



Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did NY State of Health (NYSOH) properly determine that your and your spouse's receipt of advance payments of the premium tax credit ended on either October 1, 2016 or November 1, 2016?

Did NYSOH properly determine that your and your spouse's eligibility for advance payments of the premium tax credit resumed no earlier than January 1, 2017?

Procedural History

On November 23, 2015, NYSOH issued a notice of eligibility determination stating that you and your spouse were conditionally eligible to receive \$268.00 in advance payments of the premium tax credit (APTC), effective January 1, 2016. The notice further directed you to provide documentation confirming your income before February 20, 2016. The notice stated that if you did not submit the requested documentation by the deadline, you might lose your eligibility for health insurance or receive less financial assistance with your health insurance.

On November 25, 2015, NYSOH issued a notice confirming enrollment in a qualified health plan with APTC for you and your spouse, effective December 1, 2015.

On December 4, 2015 documents were uploaded to your account.

On December 11, 2015, NYSOH issued a notice stating that the documentation that you submitted was insufficient to resolve the request for proof of income.

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY - Spanish: 1-877-662-4886).

The notice directed that you provide additional proof of income, but no deadline was provided.

On December 16, 2015, NYSOH issued a notice confirming enrollment in a qualified health plan with APTC for you and your spouse, effective January 1, 2016.

On March 14, 2016, NYSOH redetermined eligibility for you and your spouse.

On March 15, 2016, NYSOH issued a notice of eligibility determination stating that you and your spouse were conditionally eligible to receive \$268.00 in APTC if you enrolled in a silver level qualified health plan, effective April 1, 2016. The notice further directed you to provide documentation confirming your income before "February 20, 2016" (*sic*). The notice stated that if you did not submit the requested documentation by the deadline, you might lose your eligibility for health insurance or receive less financial assistance with your health insurance.

Also on March 15, 2016, NYSOH issued a notice confirming you and your spouse's enrollment in a qualified health plan with APTC, effective January 1, 2016. The notice further directed you to provide documentation confirming your income before "February 20, 2016" (*sic*).

On September 17, 2016, NYSOH redetermined eligibility for you and your spouse, and found that you were no longer eligible for APTC as of October 1, 2016.

On September 18, 2016, NYSOH issued an eligibility determination notice stating that you and your spouse were newly eligible to purchase a qualified health plan at full cost. The notice stated that you and your spouse do not qualify for Medicaid, Child Health Plus, the Essential Plan, APTC or cost-sharing reductions because NYSOH did not receive the income documentation needed to verify the income listed in your application. The notice also stated that the eligibility was effective November 1, 2016.

Also on September 18, 2016, NYSOH issued an enrollment confirmation notice stating that you and your spouse were enrolled in a qualified health plan with \$0.00 of APTC applied to your premium.

On October 25, 2016 you updated your application for financial assistance.

On October 25, 2016 you spoke to NYSOH's Account Review Unit and appealed the termination of your APTC for the months of October 2016, November 2016 and December 2016.

On December 13, 2016, NYSOH issued an eligibility determination stating that you and your spouse were eligible for APTC in the amount of \$395.00 a month, effective January 1, 2017.

On December 14, 2016, NYSOH issued a notice of enrollment confirmation stating that you and your spouse were enrolled in a qualified health plan with APTC, effective January 1, 2017.

On February 9, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

A review of the record supports the following findings of fact:

- 1) On December 4, 2015, you uploaded your 2014 Profit or Loss from Business Schedule C [Form 1040] to your NYSOH account. NYSOH records reflect that this document was deemed invalid proof of income by NYSOH on December 10, 2015.
- 2) There is no record that you contacted NYSOH regarding the March 15, 2016 direction to produce documentation.
- 3) You testified, and your NYSOH account confirms, that you receive all of your notices from NYSOH by electronic mail.
- 4) You testified that you received an electronic alert on March 16, 2016 notifying you of a notice in your NYSOH account.
- 5) You testified that you did not know that you needed to submit documentation of your income until September 2016 when you received an invoice from your insurance carrier with contained a higher premium and did not include a premium tax credit.
- 6) You testified that you uploaded you and your spouse's 2015 federal tax return to your NYSOH account on October 25, 2016.
- 7) NYSOH records reflect that on December 12, 2016, you uploaded your 2015 Underpayment of Estimated Tax by Individuals, 2015 Estates and Trusts (Form 2210), 2015 Premium Tax Credit (Form 8962), 2015 Expenses for Business Use of Your Home (Form 8829), 2015 NY Resident Income Tax Return (IT-201), 2015 Claim for NYC Enhanced Real Property Tax Credit (NYC-208), 2015 Claim for Family Tax Relief Credit (IT-114), 2015 Claim for Empire State Child Credit (IT-213), and

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY - Spanish: 1-877-662-4886).

2015 Underpayment of Estimated Tax By Individuals and Fiduciaries (IT-2105.9)

- 8) According to NYSOH records, you and your spouse were deemed eligible for APTC on December 12, 2016.
- 9) On December 13, 2016, NYSOH issued an eligibility determination stating that you and your spouse were eligible for APTC in the amount of \$305.00 a month, effective January 1, 2017.
- 10) You testified that you are seeking reinstatement of you and your spouse's APTC for the months of October 2016, November 2016 and December 2016.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

Verification of Eligibility for Advance Payments of the Premium Tax Credit

APTC are generally available to a person who is eligible to enroll in a qualified health plan and (1) expects to have a household income between 138% and 400% of the applicable federal poverty level (FPL), (2) expects to file a tax return and claim a personal exemption deduction for a person who meets the eligibility requirements to enroll in a qualified health plan, and (3) is not otherwise eligible for minimum essential coverage except through the individual market (see 45 CFR § 155.305(f), 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

An applicant is required to attest to their household's projected annual income for purposes of determining their eligibility for APTC (45 CFR § 155.320(c)(3)(ii)(B)). For all individual's whose household income is needed, NYSOH must request tax return data from the Secretary of the Treasury and data regarding Social Security benefits from the Commissioner of Social Security in order to confirm that the information the applicant is attesting to is accurate (45 CFR § 155.320(c)(1)(i); 45 CFR § 155.320(c)(3)(ii)(A)).

If income data is unavailable, or if an applicant's attestation is not reasonably compatible with the income data NYSOH obtains, NYSOH must request additional information from the applicant to resolve the inconsistency (45 CFR § 155.320 (c)(3)(iii), (iv)). NYSOH must provide the applicant with notice of the inconsistency in their account and 90 days to provide satisfactory documentary evidence to resolve the inconsistency (45 CFR § 155.315 (f)(2)). If NYSOH remains unable to verify the attestation of the applicant, NYSOH must

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY – Spanish: 1-877-662-4886).

redetermine the applicant's eligibility based on the information available from the data sources unless the applicant demonstrates that they are unable to provide the required documentation (45 CFR § 155.315(f)(2), (g)).

Upon making an eligibility redetermination, NYSOH must notify the applicant and implement any changes in eligibility to APTC effective as of the first day of the month following the date of the notice (45 § 155.310(f), 45 CFR § 155.330(e), (f)(1)(i)).

Electronic Notices

Applicants may choose to receive notices and information from NYSOH by either electronic or regular mail. If the individual elects electronic communications, NYSOH must send an email or other electronic communication alerting the individual when a notice has been posted to his or her account and send a notice by regular mail within three business days if the electronic communication cannot be delivered (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4), (5)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that receipt of APTC for you and your spouse should end either on October 1, 2016 or November 1, 2016.

An individual requesting financial assistance to help pay for the cost of coverage provided through NYSOH is required to attest to his or her household's projected annual income. For individuals seeking APTC, NYSOH must request income data from federal data sources in order to verify an individual's income attestation.

If NYSOH cannot verify an individual's attestation, it must provide the individual with notice of the inconsistency and provide a period of 90 days from the date notice is received to resolve the inconsistency.

In the eligibility determination issued on November 23, 2015, you were advised that you and your spouse's eligibility for APTC was only conditional, and that you needed to confirm your household's income before February 20, 2016. On December 4, 2015 you uploaded your 2014 Profit or Loss from Business Schedule C to your NYSOH account. However, NYSOH records reflect that it was deemed invalid proof of income by NYSOH on December 10, 2015.

On December 11, 2015, NYSOH issued a notice stating that the documentation that you submitted was insufficient to resolve the request for proof of income. The notice requested that you provide additional proof of income. No further documents were submitted.

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY – Spanish: 1-877-662-4886).

On March 14, 2016, NYSOH redetermined eligibility for you and your spouse. On March 15, 2016, NYSOH issued an eligibility determination stating that your eligibility for APTC was only conditional, and that you needed to confirm your household's income before "February 20, 2016" (*sic*). The March 14, 2016 notice indicated a deadline date which had passed (February 20, 2016). However, there is no record that you contacted NYSOH regarding the March 15, 2016 direction to produce documentation.

No further documents were submitted and on September 17, 2016 your eligibility was redetermined and you and your spouse were found no longer eligible for APTC as of October 1, 2016.

You testified that you elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you received an electronic alert on March 16, 2016 notifying you of a notice in your NYSOH account. Despite receiving the electronic alert on March 16, 2016, you testified that you did not know that you needed to submit documentation of your income until September 2016 when you received an invoice from your insurance carrier with contained a higher premium and did not include a premium tax credit.

If the individual elects to receive electronic communications, NYSOH must send an email or other electronic communication alerting the individual when a notice has been posted to his or her account. As stated above, you testified that you received the March 16, 2016 alert from NYSOH.

Therefore, it is concluded that NYSOH did give you the proper notice that you needed to submit documentation of your income to confirm eligibility for APTC.

If NYSOH remains unable to verify the attestation of the applicant, NYSOH must redetermine an individual's eligibility based on the information available from the data sources unless the applicant demonstrates that they are unable to provide the required documentation. Any changes in APTC are to be made effective the first of the month immediately following the eligibility redetermination notice.

The September 18, 2016 eligibility determination stating that you and your spouse were no longer eligible for APTC because you failed to submit documentation is MODIFIED solely to clarify that you and your spouse were no longer eligible to receive APTC effective October 1, 2016.

The second issue under review is whether NYSOH properly determined that eligibility for APTC for you and your spouse was effective January 1, 2017.

On December 13, 2016, NYSOH issued an eligibility determination stating that you and your spouse were eligible for APTC, effective January 1, 2017. Upon making an eligibility redetermination, NYSOH must notify the applicant and implement any changes in eligibility to APTC effective as of the first day of the

month immediately following the date of the notice. Since NYSOH implemented the changes to you and your spouse's APTC eligibility on the first day of the month following December 2016, (January 1, 2017) the December 13, 2016 eligibility determination notice was correct and is AFFIRMED.

Decision

The September 18, 2016 notice of eligibility determination is MODIFIED solely to clarify that you and your spouse were no longer eligible to receive APTC effective October 1, 2016.

The December 13, 2016 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: March 30, 2017

How this Decision Affects Your Eligibility

You and your spouse are not eligible for APTC during the months of October 2016, November 2016 and December 2016. However, any discrepancy can be reconciled when you file your tax return for 2016.

You and your spouse are eligible for APTC, effective January 1, 2017.

If You Disagree with this Decision (Appeal Rights)

This Decision is final unless you submit an appeal request to the Federal Marketplace or bring a lawsuit under New York Civil Practice Law and Rules, Article 78.

You may bring a lawsuit on any Appeals Unit decision in New York State court in accordance with Article 78 of the New York Civil Practice Law and Rules. This must be done within four months of the Decision Date, which appears on the first page of this Decision.

Additionally, Appeals Unit decisions on issues involving eligibility for qualified health plans, advance premium tax credits, and cost-sharing reductions may be appealed to the Federal Marketplace. This must be done within 30 days of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

If you have questions about appealing to the Federal Marketplace, you can contact them in any of the following ways:

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY – Spanish: 1-877-662-4886).

- By calling the Customer Service Center at 1-800-318-2596
- By mail at:
Health Insurance Marketplace
Attn: Appeals
465 Industrial Blvd.
London, KY 40750-0061
- By fax: 1-877-369-0129

If you wish to be represented by an attorney in bringing an outside appeal and do not know how to go about getting one, you may contact legal resources available to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services.

If You Have Questions about this Decision (Customer Service Resources):

You can contact us in any of the following ways:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The September 18, 2016 notice of eligibility determination is MODIFIED solely to clarify that you and your spouse were no longer eligible to receive APTC effective October 1, 2016.

The December 13, 2016 eligibility determination notice is AFFIRMED.

You and your spouse are not eligible for APTC during the months of October 2016, November 2016 and December 2016.

You and your spouse are eligible for APTC, effective January 1, 2017.

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY – Spanish: 1-877-662-4886).

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY – Spanish: 1-877-662-4886).

A Copy of this Decision Has Been Provided To:



Getting Help in a Language Other than English

This is an important document. If you need help to understand it, please call 1-855-355-5777. We can give you an interpreter for free in the language you speak.

Español (Spanish)

Este es un documento importante. Si necesita ayuda para entenderlo, llame al 1-855-355-5777. Le proporcionaremos un intérprete sin ningún costo.

中文 (Traditional Chinese)

這是重要的文件。如果您需要獲得關於瞭解文件內容方面的協助，請致電 1-855-355-5777。我們可以為您免費提供您所使用語言的翻譯人員。

Kreyòl Ayisyen (Haitian Creole)

Sa a se yon dokiman ki enpòtan. Si ou bezwen èd pou konprann li, tanpri rele nimewo 1-855-355-5777. Nou kapab ba ou yon entèprèt gratis nan lang ou pale a.

中文 (Simplified Chinese)

这是一份重要的文件。如果您需要帮助理解此文件，请打电话至 1-855-355-5777。我们可以为您提供相应语种的口译服务。

Italiano (Italian)

Questo è un documento importante. Per qualsiasi chiarimento può chiamare il numero 1-855-355-5777. Possiamo metterle a disposizione un interprete nella sua lingua.

한국어 (Korean)

중요한 서류입니다. 이해하는 데 도움이 필요하시면 1-855-355-5777 번으로 연락해 주십시오. 귀하의 언어에 대한 무료 통역 서비스가 제공됩니다.

Русский (Russian)

Это важный документ. Если Вам нужна помощь для понимания этого документа, позвоните по телефону 1-855-355-5777. Мы можем бесплатно предоставить Вам переводчика Вашего языка.

العربية (Arabic)

هذه وثيقة مهمة. إذا كنت بحاجة إلى مساعدة لفهم محتواها، يُرجى الاتصال بالرقم 1-855-355-5777. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجاناً.

বাংলা (Bengali)

এটি এক গুরুত্বপূর্ণ নথি। এটি বুঝতে আপনার যদি সাহায্যের প্রয়োজন হয় তাহলে, অনুগ্রহ করে 1-855-355-5777 নম্বরে কল করুন। আপনি যে ভাষায় কথা বলেন বিনামূল্যে আমরা আপনাকে একজন দোভাষী দিতে পারি।

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY – Spanish: 1-877-662-4886).

Français (French)

Ceci est un document important. Si vous avez besoin d'aide pour en comprendre le contenu, appelez le 1-855-355-5777. Nous pouvons mettre gratuitement à votre disposition un interprète dans votre langue.

हिंदी (Hindi)

यह एक महत्वपूर्ण दस्तावेज़ है। अगर आपको इसे समझने में सहायता चाहिए, तो कृपया 1-855-355-5777 पर कॉल करें। हम आपकी भाषा बोलने वाला एक दुभाषिया निःशुल्क उपलब्ध करवा सकते हैं।

日本語 (Japanese)

これは重要な書類です。理解するために支援が必要な場合は、1-855-355-5777 にお電話ください。通訳を無料で提供いたします。

नेपाली (Nepali)

यो एउटा महत्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई निःशुल्क दोभाषे उपलब्ध गराउन सक्छौं।

Polski (Polish)

To jest ważny dokument. W przypadku konieczności skorzystania z pomocy w celu zrozumienia jego treści należy zadzwonić pod numer 1-855-355-5777. Istnieje możliwość uzyskania bezpłatnej usługi tłumacza języka, którym się posługujesz.

Twi (Twi)

Krataa yi ye tow krataa a ho hia. Se wo hia eho nkyerekyeremu a, ye sre wo, fre 1-855-355-5777. ye&etumi ama wo obi a okyerE kasa a woka no ase ama wo kwa a wontua hwee.

(Urdu) اردو

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم 1-855-355-5777 پر کال کریں۔ ہم آپ کو آپ کی مادری زبان میں ایک مفت مترجم فراہم کر سکتے ہیں۔

Tiếng Việt (Vietnamese)

Đây là tài liệu quan trọng. Nếu quý vị cần trợ giúp để hiểu tài liệu này, vui lòng gọi 1-855-355-5777. Chúng tôi có thể cung cấp thông dịch viên miễn phí nói ngôn ngữ của quý vị.

אידיש (Yiddish)

דאס איז א וויכטיגער דאקומענט. אויב איר דארפט הילף עס צו פארשטיין, ביטע רופט 1-855-355-5777. מיר קענען אייך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY – Spanish: 1-877-662-4886).